

June 4, 2018

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84

Dear Ms. Dortch:

Google Fiber submits this ex parte notice to respond to recent statements made on the record in this proceeding by the Communications Workers of America (“CWA”). Specifically, in CWA’s recent meetings with staff, it suggested that the use of OTMR procedures in Louisville is leading to a greater number of dangerous mistakes in make-ready work performed by third party contractors.¹ In doing so, CWA echoes the unsubstantiated claims made by Comcast, Charter, and NCTA in their opening comments in this proceeding² by similarly failing to show that the errors depicted in the photographs attached to their ex parte notice were the result of OTMR or even caused by the use of third party contractors. The mere fact that, at some point, errors were made by someone in performing make-ready work does not implicate the safety and efficiency of a well-structured OTMR regime.³

¹ See Letter from Debbie Goldman, Communications Workers of America, to Marlene H. Dortch, FCC, WC Docket No. 17-84, at 2 (filed May 23, 2018) (“[Mr. Melton] discussed photographs of pole attachment work, detailing the dangerous mistakes made by contractors in Louisville, KY, where an OTMR ordinance is in place.”).

² See Comments of Comcast Corporation, WC Docket No. 17-84 at 21 (filed June 15, 2017); Comments of Charter Communications, WC Docket No. 17-84 at 39 (filed June 15, 2017); Comments of NCTA – The Internet & Television Association, WC Docket No. 17-84 at 16 (filed June 15, 2017); *see also* Reply Comments of Google Fiber Inc., WC Docket No. 17-84 at 11-13 & n.24 (filed July 17, 2017).

³ In fact, to Google Fiber’s knowledge, OTMR is not being used in Louisville by any attachers.

CWA makes these arguments to support its conclusion that the risk of so-called “shoddy” work can only be resolved by allowing existing attachers to self-perform simple make-ready before a new attacher has the opportunity to undertake OTMR. But this argument does not follow. Allowing self-performance would do nothing more than undermine the entire purpose of OTMR—which is to increase safety and improve efficiency by reducing unnecessary trips to the pole that increase risks to people and property, create unneeded disruption to streets and sidewalks, and impose excessive and unpredictable costs on new competitive entrants.

CWA’s concerns about poor quality work are best addressed by rules that require approval of contractors by pole owners, with an opportunity for input by existing attachers, as set forth in the BDAC’s proposal. Robust procedures for approval of qualified contractors affords pole owners and existing attachers with ample opportunities to address the use of unqualified contractors.

Finally, Google Fiber reiterates that, where union contractors have been approved by a pole owner, it has no problem engaging those contractors for OTMR. But the reality is that, in many areas, no such contractors exist; instead, in some of these places, the only CWA members covered by a collective bargaining agreement (“CBA”) are employees of the counterparty to the CBA. In those areas, if new attachers were required to honor a CBA, they would not only be unable to use union contractors for OTMR, but they would also be unable to exercise their self-help remedy *under the current rules*. The Commission should not adopt rules that allow existing attachers to get special treatment—under any process.

Please do not hesitate to contact me with any questions.

Sincerely,



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